

INSURANCE DIVISION[191]

Notice of Intended Action

Proposing rule making related to the requirement for pharmacy benefits managers to file annual reports and providing an opportunity for public comment

The Insurance Division hereby proposes to amend Chapter 59, “Pharmacy Benefits Managers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 510.9 and 510B.3 and 2019 Iowa Acts, Senate File 563, section 3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 510 and 510B and 2019 Iowa Acts, Senate File 563.

Purpose and Summary

The Insurance Division (Division) proposes to amend current rules in and add a new rule to Chapter 59 to implement 2019 Iowa Acts, Senate File 563, (future Iowa Code chapter 510C) which requires pharmacy benefits managers to file with the Insurance Commissioner an annual report related to rebates and administrative fees received from pharmaceutical companies and the extent to which those rebates and administrative fees are passed on to the insurance companies for which the pharmacy benefits managers provide services. The legislation, 2019 Iowa Acts, Senate File 563, was signed by the Governor on May 8, 2019, and will become effective July 1, 2019. These proposed amendments and new rule are intended to become effective September 4, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

The Division’s general waiver provisions of 191—Chapter 4 apply to these rules.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on June 27, 2019. Comments should be directed to:

Ann Outka
Insurance Division
Two Ruan Center
601 Locust Street, Fourth Floor
Des Moines, Iowa 50309
Fax: 515.281.3059
Email: ann.outka@iid.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

June 27, 2019
10 to 11 a.m.

Division Offices, Fourth Floor
Two Ruan Center
601 Locust Street
Des Moines, Iowa

Persons attending the public hearing will be asked to provide their names; persons may submit written comments; if persons wish to make oral comments in person or by telephone, they will be asked to state their names and whom they represent for the record, and to confine any remarks to the subject of the proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Division and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 191—59.1(510B) as follows:

191—59.1(510B,510C) Purpose. The purpose of this chapter is to administer the provisions of Iowa Code ~~chapter~~ chapters 510, 510B and 510C (2019 Iowa Acts, Senate File 563) relating to the regulation of pharmacy benefits managers.

ITEM 2. Renumber rule **191—59.11(505,507,507B,510,510B,514L)** as **191—59.12(505,507,507B,510,510B,514L)**.

ITEM 3. Adopt the following new rule 191—59.11(510B,510C):

191—59.11(510B,510C) Pharmacy benefits manager annual report.

59.11(1) Definitions. In addition to the definitions set forth in rule 191—59.2(510B), the definitions of Iowa Code section 510C.1 (2019 Iowa Acts, Senate File 563, section 1) shall apply to this rule.

59.11(2) Filing of annual report. In addition to submitting the third-party administrator annual report required under rule 191—58.11(510), each pharmacy benefits manager shall submit to the commissioner on or before February 15 of each year the annual report required by Iowa Code section 510C.2 (2019 Iowa Acts, Senate File 563, section 2) (PBM annual report). The pharmacy benefits manager shall follow the instructions and use the online submission form provided on the Iowa insurance division's website (iid.iowa.gov) to file the PBM annual report.

59.11(3) Verification. At least two officers of the pharmacy benefits manager shall certify in writing that they verified the accuracy of the PBM annual report.

59.11(4) Electronic filing. Each pharmacy benefits manager shall submit the PBM annual report electronically as set forth in the instructions, unless otherwise specifically authorized by the commissioner.

59.11(5) Public access. The commissioner shall publish on the Iowa insurance division's website (iid.iowa.gov) the nonconfidential information received in the PBM annual report.

59.11(6) Completeness of PBM annual report. All information required by the commissioner must be submitted before the PBM annual report shall be considered complete.

59.11(7) Penalties. A pharmacy benefits manager that fails to timely submit to the commissioner a complete PBM annual report shall pay a late fee of \$100. If a pharmacy benefits manager fails to submit a complete PBM annual report by May 15, the pharmacy benefits manager shall be subject to penalties as set forth in rule 191—59.12(505,507,507B,510,510B,510C,514L).

ITEM 4. Amend renumbered rule 191—59.12(505,507,507B,510,510B,514L) as follows:

191—59.12(505,507,507B,510,510B,510C,514L) Failure to comply. Failure to comply with the provisions of this chapter or with Iowa Code chapters 510, ~~and~~ 510B and 510C (2019 Iowa Acts, Senate File 563), or failure to comply with 191—Chapters 58 and 78 or Iowa Code chapters 507 and 514L as they are relevant to the administration of this chapter or of Iowa Code chapters 510, ~~and~~ 510B and 510C (2019 Iowa Acts, Senate File 563), shall subject the pharmacy benefits manager to the penalties of Iowa Code chapter 507B.

ITEM 5. Amend **191—Chapter 59**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 505, 507, 507B, 510, 510B, 510C (2019 Iowa Acts, Senate File 563) and 514L.